

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2299 - SB 2580

April 4, 2022

SUMMARY OF BILL: Expands the offense of aggravated statutory rape when the victim is 13 or 14 years of age and the defendant is at least 4 years older. Increases the penalty for such an offense from a Class E felony to a Class C felony. Prohibits a court from granting judicial diversion for aggravated statutory rape.

FISCAL IMPACT:

Increase State Expenditures – \$1,226,800 Incarceration

Assumptions:

- Tennessee Code Annotated § 39-13-506(b)(1) and 39-13-506(d)(2)(a) establishes that a person commits the Class E felony offense of statutory rape when:
 - The victim is at least 13 but less than 15 years of age and the defendant is at least 4 years but less than 10 years older than the victim; or
 - The victim is at least 15 but less than 18 years of age and the defendant is more than 5 but less than 10 years older than the victim.
- Pursuant to Tenn. Code Ann. § 39-13-506(c) and 39-13-506(d)(3), aggravated statutory rape is a Class D felony offense when the victim is at least 13 but less than 18 years of age and the defendant is at least 10 years older than the victim.
- The proposed legislation expands the offense of aggravated statutory rape to include when the victim is 13 or 14 years of age and the defendant is at least 4 years older. Aggravated statutory rape pursuant to the proposed legislation is a Class C felony offense.
- Individuals charged with the Class C felony offense of aggravated statutory rape pursuant to this legislation would be charged with the Class E felony offense of statutory rape under current law.
- Based upon information provided by the Department of Correction (DOC), there has been an average of 32 admissions in each of the last 10 years for the Class E felony offense under Tenn. Code Ann. § 39-13-506(d)(2)(a) for statutory rape, with an estimated average time served of 0.77 years, after adjusting for pre-trial jail credits.
- However, these admissions include offenses under Tenn. Code Ann. § 39-13-506(b)(1)-(2). It is assumed that 25 percent or 8 (32 x 25.0%) of these admissions involved a victim who was at least 13 but less than 15 years of age and a defendant who was at least 4 years older than the victim.
- The average time served for aggravated statutory rape is 1.70 years.

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- Pursuant to Public Chapter 563 (2021), an aggravated statutory rape conviction is required to serve 100 percent of the sentence imposed, undiminished by any sentence reduction credits the person may be eligible for or earn.
- Accounting for recidivism rates, the proposed legislation will result in 5.4 admissions annually serving an additional 0.93 years (1.70 – 0.77).
- Based on information provided by the DOC, there has been an average of 40.7 convictions in each of the last 10 years for the offense of statutory rape where the offender was sentenced to community supervision probation.
- It is reasonably assumed 25 percent or 10.18 (40.7 x 25.0%) of such convictions would be charged with the Class C felony offense of aggravated statutory rape pursuant to this legislation, and be prohibited from receiving judicial diversion.
- The proposed legislation will result in 10.18 admissions annually serving an additional 1.7 years for aggravated statutory rape.
- Based on information provided by the DOC, there has been an average of 23.5 convictions in each of the last 10 years for the offense of aggravated statutory rape where the offender is sentenced to community supervision probation.
- The proposed legislation will result in 23.5 admissions annually being prohibited from receiving judicial diversion and serving an additional 1.7 years for aggravated statutory rape.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.74 percent per year for each of the past 10 years (from 2010 to 2020).
- The weighted average operational costs per day are estimated to be \$51.36 for inmates housed at state facilities and \$48.77 for inmates housed at local facilities.
- The estimated increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 645,900	FY22-23
\$ 1,158,400	FY23-24
\$ 1,162,900	FY24-25
\$ 1,173,000	FY25-26
\$ 1,181,300	FY26-27
\$ 1,191,800	FY27-28
\$ 1,196,200	FY28-29
\$ 1,206,800	FY29-30
\$ 1,215,600	FY30-31
\$ 1,226,800	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring costs increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$1,226,800.

- Any impact to the court system, supervisory programs overseeing probation, or fee revenue paid to a clerk of the court to process an expunction after the completion of a judicial diversion program is estimated to be not significant.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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